

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

PROMOTE INNOVATION LLC,

Plaintiff

V.

SERGEANT'S PET CARE PRODUCTS,
INC., VIRBAC AH, INC., and
VIRBAC CORPORATION,

Defendants.

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Case 6:11-cv-00078-LED
Jury

ORDER OF DISMISSAL

In light of the settlement agreement and stipulation of dismissal between Plaintiff Promote Innovation LLC ("Promote"), as Relator for the United States, and Defendants Sergeant's Pet Care Products, Inc. (Sergeant's) and Virbac AH, Inc. and Virbac Corporation (together, Virbac) (collectively, Defendants), the Court **HEREBY ORDERS** as follows:

1. This is an action by Promote, as Relator for the United States claiming false patent marking. On August 18, 2011, Promote filed an amended complaint in this action (“Amended Complaint”).

2. Promote and Defendants have agreed to settle their disputes in this action. Promote consents to dismissal with prejudice of all of its claims in this suit. Accordingly, Promote's false marking claims against Defendants, as set forth in the Amended Complaint, are hereby dismissed with prejudice.

3. Any and all claims that have been or could have been brought by Promote against Defendants, on behalf of itself, the United States, and the general public,

regarding alleged false marking or advertising or causing or contributing to false marking or advertising under 35 U.S.C. § 292 of the products identified in the Amended Complaint are fully resolved.

4. To the extent that any other claims for false marking under 35 U.S.C. § 292 of the products identified in the Amended Complaint exist against Defendants, such claims are hereby extinguished. Accordingly, any future litigation brought under 35 U.S.C. § 292 on behalf of the United States and/or the general public with regard to any of the products identified in the Amended Complaint that were manufactured on or before the date hereof is barred.

5. Defendants and those acting in concert with Defendants may without further liability sell inventory and exhaust materials, packaging, and labels that were manufactured on or before the date hereof.

6. Promote and Defendants agree that Promote is in privity with the United States of America and the general public for the purposes of this litigation.

7. Promote and Defendants shall each bear their own attorney fees and costs incurred in connection with this action.

8. This Court retains jurisdiction over the parties and the settlement agreement for purposes of resolving any dispute that may arise under it.

So ORDERED and SIGNED this 22nd day of August, 2011.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**